

Title	Juvenile Law: Appellate Counsel Access to Court Records and Juvenile Appellate Brief Distribution Procedure (amend Cal. Rules of Court, rules 1423 and 39.1)
Summary	Rules 1423 and 39.1 would be amended to clarify (1) that counsel who are entitled to inspect juvenile court records, include attorneys representing parties in related pending appeals or writs and (2) the number of copies of briefs required to be provided by the relevant agency.
Source	Family and Juvenile Law Advisory Committee Hon. Michael Nash and Hon. Mary Ann Grilli, Co-Chairs
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Discussion	<p>Practitioners representing clients in juvenile appellate matters report frequent confusion about the role of an appellate attorney in juvenile court proceedings and have requested clarification in the rules to expressly include them among counsel who are allowed to have access to juvenile case records.</p> <p>Welfare and Institutions Code section 827(a)(1)(E) and rule 1423 provide that attorneys for the parties have the right to inspect juvenile case files. Appellate counsel appointed in juvenile cases report, however, that they are denied access to case files in some counties. The proposed amendment to rule 1423 would clarify that appellate counsel for the parties are included within the description of “counsel”.</p> <p>The proposed amendments would clarify the definition of “counsel” in juvenile cases. The amendments would increase the efficiency of counsel by permitting them to research and monitor a juvenile case in which they are appointed as counsel on a related appeal. Appellate counsel on related appeals or writs are attorneys for one of the parties of the underlying case and should be given the same access to case files that is given to trial counsel. Attorneys representing parties of the underlying juvenile case in non-juvenile court proceedings may also be entitled to inspect the juvenile court records if they have relevance to the other proceeding.</p> <p>Practitioners also report that some counties are not providing the required number of copies of appellate briefs. Rule 37, which applies</p>

to criminal appellate proceedings, provides that the People shall serve two copies of their briefs on appellate defense counsel, with one copy designated to be provided to the client. Juvenile appellate practitioners have requested that rule 39.1 be amended to be consistent with rule 37, in accordance with rule 39, which provides that the rules governing appeals from the superior court in a criminal case are applicable to all appeals from the juvenile court.

Practitioners who represent a party in a juvenile case are reimbursed through appointed counsel projects that must receive a copy of each brief to supervise the work of the appellate counsel and monitor the amount of requested fees. Practitioners report that would save time and money if the county child welfare department would directly distribute a copy of every brief to the relevant appointed counsel program.

The proposed amended rules are attached at pages 3–4. Welfare and Institutions code section 827 is attached at page 5.

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Attachments

1 **Rule 1423. Confidentiality of records (§§ 827, 828)**  
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3 (a) \*\*\*  
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5 (b) **[Inspection]** Only those persons specified in sections 827 and 828 may  
6 inspect juvenile court records without authorization from the court.  
7 Counsel who are entitled to inspect juvenile court records include any  
8 trial court or appellate attorney representing a party to the juvenile court  
9 proceeding, in either the underlying juvenile proceeding or in any other  
10 pending judicial or administrative proceeding. Juvenile court records  
11 may not be obtained or inspected by civil or criminal subpoena.  
12 Authorization for any other person to inspect, obtain, or copy juvenile  
13 court records must be ordered by the juvenile court presiding judge or a  
14 judicial officer designated by the juvenile court presiding judge.  
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16 In determining whether to authorize inspection or release of juvenile  
17 court records, in whole or in part, the court shall balance the interests of  
18 the child and other parties to the juvenile court proceedings, the interests  
19 of the petitioner, and the interests of the public. The court shall permit  
20 disclosure of, discovery of, or access to juvenile court records or  
21 proceedings only insofar as is necessary, and only if there is a  
22 reasonable likelihood that the records in question will disclose  
23 information or evidence of substantial relevance to the pending  
24 litigation, investigation, or prosecution. The court may issue protective  
25 orders to accompany authorized disclosure, discovery, or access.  
26

27 (c)–(i) \*\*\*  
28

1 **Rule 39.1. Special rule for dependency and freedom from custody appeals**

2  
3 (a)–(c)\*\*\*

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5 (d) [Copies of briefs] Notwithstanding rules 16(c) and 37(a), the parties  
6 shall must not serve briefs on the Attorney General or the district attorney  
7 unless that office represents a party. If the Court of Appeal has appointed  
8 appellate counsel for any party, the county child welfare department must  
9 serve two copies of its briefs on that counsel and one copy of its briefs on  
10 the appellate project for the district, if applicable.

11  
12 (e)–(f)\*\*\*

## **Welfare and Institutions Code section 827**

827. (a) (1) Except as provided in Section 828, a case file may be inspected only by the following:

- (A) Court personnel.
- (B) The district attorney, a city attorney, or city prosecutor authorized to prosecute criminal or juvenile cases under state law.
- (C) The minor who is the subject of the proceeding.
- (D) His or her parents or guardian.
- (E) The attorneys for the parties, and judges, referees, other hearing officers, probation officers and law enforcement officers who are actively participating in criminal or juvenile proceedings involving the minor.

**(F) – (M) \*\*\***